

1  
2  
3  
4  
5  
6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**  
8

9 EDWARD W. FISHER, JR.

10 Plaintiff,

11 vs.

12 REX BELL, et al.,

13 Defendants.  
14

Case No. 2:13-cv-01383-JAD-NJK

**ORDER**

15 Plaintiff has submitted an application to proceed *in forma pauperis* (Dkt. #1) and a civil  
16 rights complaint pursuant to 42 U.S.C. § 1983. The court finds that plaintiff is unable to pre-pay  
17 the filing fee. The court has reviewed the complaint and finds that this action must be dismissed.

18 Pursuant to the Prison Litigation Reform Act of 1995 (PLRA), federal courts must dismiss  
19 the claim of a plaintiff proceeding *in forma pauperis*, if the action “is frivolous or malicious, fails to  
20 state a claim on which relief may be granted, or seeks monetary relief against a defendant who is  
21 immune from such relief.” 28 U.S.C. § 1915(e). A complaint is frivolous “where it lacks an  
22 arguable basis either in law or in fact . . . . [The] term ‘frivolous,’ when applied to a complaint,  
23 embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Neitzke*  
24 *v. Williams*, 490 U.S. 319, 325 (1989); *see also Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir.  
25 1995). “[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of  
26 the irrational or the wholly incredible, whether or not there are judicially noticeable facts available  
27 to contradict them. An *in forma pauperis* complaint may not be dismissed, however, simply  
28 because the court finds the plaintiff's allegations unlikely.” *Denton v. Hernandez*, 504 U.S. 25, 33

1 (1992). Allegations of a pro se complainant are held to less stringent standards than formal  
2 pleadings drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam).


3 Plaintiff alleges that defendants have implanted a secret listening device into his inner ear to  
4 steal military secrets and to violate his right to free expression of his religion. Plaintiff's allegations  
5 are wholly within the realm of fantasy, and the court is unable to give him any relief.

6 **IT IS THEREFORE ORDERED** that plaintiff's application to proceed *in forma pauperis*  
7 is **GRANTED**. Plaintiff shall not be required to pre-pay the full filing fee.

8 **IT IS FURTHER ORDERED** that the clerk of the court shall file the complaint.

9 **IT IS FURTHER ORDERED** that this action is **DISMISSED** as frivolous. The clerk shall  
10 enter judgment accordingly.

11 Dated: December 20, 2013.

12   
13 JENNIFER A. DORSEY  
14 United States District Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28